

IDAHO PERSONNEL COMMISSION
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IDAHO PERSONNEL COMMISSION

STATE OF IDAHO

JANE R. ANDERSON,)	
)	
Petitioner/Appellant,)	IPC NO. 97-10
)	
vs.)	
)	ORDER ON APPELLANT'S
DEPARTMENT OF TRANSPORTATION,)	POST-HEARING FILING
)	OF EXHIBITS
Respondent.)	
_____)	

On July 8, 2002, this case came up for hearing before the Idaho Personnel Commission on Petition for Review. During oral argument, Appellant Jane Anderson attempted to introduce for the Commission's review certain documents discussed below. An offer of proof was made as to the documents' inclusion in the record duly formed before Hearing Officer Ken Bergquist upon which this Petition for Review is based. The Commission took the proposed offer of the documents under advisement and instructed Appellant's counsel to submit the proposed documents for the Commission's review. Counsel did so in a Post-Hearing Filing of Exhibits. The documents submitted are as follows:

- (1) Exhibit 8- "Notice of Contemplated Action and Basis and Evidence relied upon for Contemplated Action.
- (2) Letter dated March 24, 1997 addressed to Jane Anderson from Val Altman, Office Manager, Internal Medicine Specialists.
- (3) Exhibit 10- "Findings and Recommendations" of the Impartial Review Panel dated April 30, 1997.

- (4) Letter dated April 3, 1997 addressed to Mary Bradford from Dr. Leslie J. Stubbs, Internal Medicine Specialists.
- (5) Letter dated April 18, 1997 addressed to Mary Bradford from Dr. Leslie J. Stubbs, Internal Medicine Specialists.
- (6) Letter dated April 18, 1997 from Dr. Leslie Pedersen.
- (7) Authorization to Release Confidential Medical Information signed by Jane Anderson and dated July 12, 1996.
- (8) Handwritten draft of a medical release authorization- not executed or signed.

STANDARD OF REVIEW

The nature of the Idaho Personnel Commission's review on Petition for Review before the full Commission is set out at Idaho Code § 67-5317 and IDAPA 15.04.01.202.03. Idaho Code § 67-5317 provides in pertinent part:

“If a petition for review is filed, the personnel commission shall review the record of the proceeding before the hearing officer, briefs submitted in accordance with any briefing schedule it orders, and any transcripts submitted of the hearing below.”

IDAPA 15.04.01.202.03 provides:

“Nature of Hearing. The hearing of the Commission on a petition for review shall be limited to oral arguments regarding issues of law and fact as may be found in the record established before the hearing officer and any post-hearing orders.”

As demonstrated by statute, and more specifically by Idaho Personnel Commission rule, therefore, the Commission on petition for review only considers the record established before the hearing officer and does not consider any documents, exhibits or other evidence not part of the record of the hearing officer below.

DISCUSSION

Upon receiving Appellant's Post-Hearing Filing of Exhibits, the Commission reviewed the complete record established before the hearing officer below. Documents 1, 3, 4, 7 & 8, as listed above, are part of the record established below and have been fully considered.

However, Documents 2, 5 & 6, as listed above, are not contained in the record before the hearing officer below. Further nothing in Appellant's offer of proof at the petition for review hearing demonstrated that Appellant was unable to introduce Documents 2, 5 & 6 into the record before the hearing officer below. The Commission, pursuant to statute and rule, and upon considering Appellant's offer of proof, will not augment the record and will not consider these documents in rendering its decision.

IT IS SO ORDERED.

DATED THIS day of July, 2002.

BY ORDER OF THE
IDAHO PERSONNEL COMMISSION

Idaho Personnel Commission Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered to the following parties by the method stated below on this ____ day of July, 2002.

FIRST CLASS MAIL

Iver J. Longeteig
817 W. Franklin
Boise, Idaho 83702

Dave W. Lloyd
Deputy Attorney General
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Secretary to Idaho Personnel Commission